

LEGISLATIVE BILL 328

Approved by the Governor April 20, 1979

Introduced by Brennan, 9

AN ACT to amend sections 48-634 and 48-638, Reissue Revised Statutes of Nebraska, 1943, relating to labor; to extend the time for appeals as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 48-634, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-634. The claimant or any other party entitled to notice of a determination as herein provided, may file an appeal from such determination with an appeal tribunal. Notice of appeal must be in writing and must be delivered and received within ten twenty days after the date of mailing of the notice of determination to his or her last-known address, or, if such notice is not mailed, within seven days after the date of personal delivery of such notice of determination. For good cause shown, the tribunal may also take jurisdiction over appeals filed outside the prescribed appeal period. Unless the appeal is withdrawn, the appeal tribunal, after affording the parties reasonable opportunities for a fair hearing, shall make findings and conclusions and on the basis thereof affirm, modify or reverse such determination; Provided, that whenever an appeal involves a question as to whether services were performed by the claimant in employment or for an employer, the tribunal shall give special notice of such issue and of the pendency of the appeal to the employer and to the commissioner, both of whom shall thenceforth be parties to the proceeding and be afforded a reasonable opportunity to adduce evidence bearing on such question. The parties shall be promptly notified of such tribunal's decision and shall be furnished with a copy of the decision and the findings and conclusions in support thereof and such decision shall be final five days after the date of mailing of notice thereof.

Sec. 2. That section 48-638, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-638. Within ~~ten~~ thirty days after a decision of an appeal tribunal has become final, the commissioner, or any party to the proceedings before the appeal

tribunal, may obtain judicial review thereof by filing (1) in the district court of the county in which the individual claiming benefits claims to have been last employed or in which such claimant resides or (2) in any district court of this state upon which the parties may agree, a petition for review of such decision. In such review proceedings, any other party to the proceedings before the tribunal shall be made a party defendant. The petition for review need not be verified but shall state the grounds upon which such review is sought. The commissioner shall be deemed to be a party to any such review proceedings. If the commissioner is a party defendant, the petition shall be served upon him by leaving with him, or such representative as he may designate for that purpose, as many copies of the petition as there are defendants. With his answer or petition, the commissioner shall certify and file with the court a certified copy of the records of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the appeal tribunal's findings, conclusions, and decisions therein. Upon the filing of a petition for review by the commissioner or upon the service of the petition on him, the commissioner shall forthwith send by registered or certified mail to each other party to the proceeding a copy of such petition. Such mailing shall be deemed to be completed service upon all such parties. Each party defendant shall file his answer within ten days from the date of such mailing.

Sec. 3. That original sections 48-634 and 48-638, Reissue Revised Statutes of Nebraska, 1943, are repealed.